

**UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT**

SHAWN MUSGRAVE,

Appellant,

v.

MARK WARNER, *et al.*,

Appellees.

Case No. 22-5252

* * * * *

APPELLANT’S NOTICE OF SUPPLEMENTAL AUTHORITY

Appellant respectfully files this notice to respond briefly to the argument raised today by the United States regarding the compelling nature of the Government’s interest in keeping classified information secret, which the undersigned inadvertently neglected to mention during his rebuttal. Appellees and the United States each cite to this Circuit’s opinion in *McGehee v. Casey*, 718 F.2d 1137 (D.C. Cir. 1983), as support for this position, but none of them provide the full context of that discussion, in which the Court more relevantly held, “The government has no legitimate interest in censoring unclassified materials.” *Id.* at 1141. This is the reason that the fact that the report is classified is not the end of the inquiry, because it does not address the fact that there is information in the report which is also unclassified, which would mean that there is information in the

report for which the Government's interest is *not* compelling and does *not* outweigh the public interest in disclosure.

Date: December 13, 2023

Respectfully submitted,

/s/ Kelly B. McClanahan

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing filing contains 277 words, and was prepared in 14-point Times New Roman font using Microsoft Word 2016.

/s/ Kelly B. McClanahan
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